IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE NINETH DAY OF MARCH
TWO THOUSAND AND SIX

PRESENT

THE HON'BLE SRI JUSTICE BILAL NAZKI

and
THE HON'BLE SRI JUSTICE G.CHANDRAIAH

WRIT PETITION No.4261 of 2006

Between:

Raja Rajeswara Parboiled Rice Industries & Exports Limited,

Komarabanda (v), Kodad(M), Nalgonda District,

Rep. By its Managing Partner P.Ramesh.

..... PETITIONER

AND

Commercial Tax Officer,

Kodad Circle,

4-113/1/3, 1st Floor, Mallika Towers,

Opp. BSNL Exchange, Kodad – 508 206

.....RESPONDENT

ORDER: ***(Per Hon'ble Sri Justice Bilal Nazki,)***

An order dated 19-01-2006, passed by the respondent-Commercial Tax Officer restricting the claim of the petitioner for sales tax credit to Rs.6,44,386/- only, has been challenged in this Writ Petition.

The petitioner claimed credit for Rs.7,57,960.25ps. This claim had become available on coming into force of the Andhra Pradesh Value Added Tax Act. The respondent issued a notice on 22-10-2005. Relevant portion of the said notice reads as under:

> 'I am TO notify you that your claim FOR SALES tax credit IS RESTRICTED TO Rs.644386 as against Rs.757960.25 claimed by you. I herewith furnish the reason for restriction OF SALES tax credit: **Aproved**.
>
> You are therefore requested TO FILE your written objections IF ANY along WITH documentary evidence within 10 days OF DATE OF this notice failing which the proposal AS stated above will be confirmed without ANY further notice IN the matter.'

This will amply show that no reasons for restricting the claim were given by the respondent-Commercial Tax Officer. The petitioner was asked to reply within ten days. Petitioner contends that he did not reply because there was no reason given in the notice for coming to a conclusion that he was not entitled to the credit of Rs.7,57,960/-. Then, the respondent-Commercial Tax Officer proceeded to pass the order dated 19-01-2006 on the ground that the petitioner had not responded to the notice.

Counter has been filed. Some reasons have been assigned in the counter like the petitioner had failed to show that there was movement of goods, and that the notice was not on the weight of the goods, but notice did not contain any reason, which could have

been replied to by anybody.

For this reason alone, we allow the Writ Petition, set aside the notice dated 22-10-2005, and also the order dated 19-01-2006. However, the respondent is at liberty to issue fresh notice to the petitioner in accordance with law. No costs.

(Bilal Nazki, J)

9h March, 2006

(G.Chandraiah, J)

LUR